

## **REMARKS**

This is a full and timely response to the final Office Action of November 27, 2007.

Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this Second Response, claims 1, 6-8, 15, 16, 24-27, 30, and 31 are pending in this application. Claims 9, 11, 12, 28, and 32-34 have been canceled via the amendments set forth herein, and claims 24 and 25 are allowed. It is believed that the foregoing amendments add no new matter to the present application.

### **Response to §101 Rejections**

#### **Claims 26 and 27**

Claims 26 and 27 presently stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. In particular, it is alleged in the Office Action that:

"Claims 26-27 are non statutory. The claimed system is constructed of software program instructions. Thus, the claimed system comprising of an operating system; and a translation system is considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01-1: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.,,"

First of all, Applicants respectfully submit that the claimed inventions are not necessarily implemented in software. For example, claims 26 and 27 both recite a "translation system," and in various embodiments described by the instant application, at least a portion of a "translation system" can be implemented in hardware. See page 8, lines 4-5.

In addition, even if the claimed inventions are implemented in software, they are not directed to "computer programs claimed as computer listings per se." Indeed, rather than

claiming a mere "computer listing per se," claims 26 and 27 each recite computer components that are arranged or "configured to" perform various functions and, as such, define functional interrelationships that make the claims statutory. "Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, it is descriptive material *per se* and hence nonstatutory." M.P.E.P. §2106.01.

### **Response to Double Patenting Rejections**

Claims 1, 6-9, 11, 12, 15, 16, 24-28, and 30-34 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over U.S. Patent No. 6,658,486 in view of *Record* (U.S. Patent No. 5,625,821). Submitted herewith is a terminal disclaimer pertaining to U.S. Patent No. 6,658,486, and Applicants, therefore, request that the double patenting rejections of claims , 6-9, 11, 12, 15, 16, 24-28, and 30-34 be withdrawn. See M.P.E.P. §804.02.

In filing the terminal disclaimer, Applicants rely upon the rulings of the Federal Circuit that the filing of such a terminal disclaimer does not act as an admission, acquiescence or estoppel on the merits of the obviousness issue. "In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection." *Quad Environmental Tech. v. Union Sanitary Dist.*, 946 F.2d 870, 874 (Fed. Cir. 1991); *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

### Response to §102 and §103 Rejections

"Anticipation under 35 U.S.C. §102 requires the presence in a single prior art disclosure of **each and every** element of the claimed invention." *Lewmar Marine, Inc. v. Barient, Inc.*, 827 F.2d 744, 747; 3 U.S.P.Q.3d 1766 (Fed. Cir. 1987). In order for a claim to be properly rejected under 35 U.S.C. §103, the combined teachings of the prior art references must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical Co.*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). In addition, "(t)he PTO has the burden under section 103 to establish a *prima facie* case of obviousness." *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

#### Claim 1

Claim 1 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by Solomon (U.S. Patent No. 6,269,409). Claim 1, presently reads as follows:

1. A computer system for selectively blocking event signals, comprising:  
**an operating system configured to detect an occurrence of an event and to transmit an event signal corresponding to said event;** and  
**a translation system having a first data structure** and configured to translate a first set of instructions from a program into a second set of instructions and to transmit said second set of instructions to said operating system for execution, **said first data structure having a first value indicating whether said event signal is blocked**, said first set of instructions incompatible with said operating system and said second set of instructions compatible with said operating system, **said translation system configured to identify, within said first set of instructions, a system call for blocking or unblocking said event signal and to update said first value in said first data structure in response to said system call defined by said first set of instructions**, said translation system configured to receive said event signal from said operating system and to transmit, to said program, a signal indicating said occurrence of said event in the absence of an indication from said first value that said event signal is blocked.  
(Emphasis added).

Applicants respectfully assert that *Solomon* fails to disclose at least the features of claim 1 highlighted hereinabove. Thus, the 35 U.S.C. §102 rejection of claim 1 is improper.

In this regard, it is alleged in the Office Action that *Solomon* teaches "an operating system configured to detect an occurrence of an event and to transmit an event signal corresponding to said event (FIG. 3; col. 3, lines 44-67; col. 4, lines 35-39)." Accordingly, it is apparently alleged in the Office Action that the interrupt signal 504 described at column 4, lines 35-39, of *Solomon* constitutes the "event signal" recited by claim 1. However, in claim 1, the "event signal" is transmitted by an "operating system." In *Solomon*, the alleged "event signal" (*i.e.*, the interrupt signal 504) is transmitted to, not by, an "operating system." Thus, the interrupt signal 504 cannot constitute the "event signal" recited by claim 1. For at least this reason, the Office Action fails to establish that *Solomon* discloses each feature of pending claim 1.

In addition, even if it is assumed for the sake of argument that the interrupt signal 504 of *Solomon* constitutes the "event signal" recited by claim 1 and that the operating system 506 somehow transmits the alleged "event signal" rather than receives it, *Solomon* fails to disclose that the alleged "translation system" has any data structure including a "value" that indicates "whether said event signal is blocked" and is updated in response to "a system call for blocking or unblocking said event signal." Indeed, the HAL or SAL disclosed by *Solomon* apparently translates system calls communicated from one operating system to another, but nothing in *Solomon* indicates that the HAL or SAL tracks whether the alleged "event signal" is blocked. Accordingly, *Solomon* fails to disclose a "translation system having a first data structure... said first data structure having a first value indicating whether said event signal is blocked... (and) said translation system configured to identify... a system call for blocking or unblocking said event signal and to update said first value in said first data structure in response to said system call," as recited by claim 1.

For at least the above reasons, Applicants respectfully assert that the cited art fails to disclose each feature of pending claim 1. Therefore, the 35 U.S.C. §102 rejection of claim 1 should be withdrawn.

**Claims 6-8, 30, and 31**

Claim 6 presently stands rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Solomon* in view of *Record* (U.S. Patent No. 5,625,821). In addition, claims 7, 8, 30, and 31 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Solomon*. Applicants submit that the pending dependent claims 6-8, 30, and 31 contain all features of their respective independent claim 1. Since claim 1 should be allowed, as argued hereinabove, pending dependent claims 6-8, 30, and 31 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). these dependent claims recite patentably distinct features and/or combinations of features that make them allowable, notwithstanding the allowability of their base claim 1.

For example, claim 30 recites:

30. The system of claim 1, wherein said system call is for blocking said event signal, and wherein said translation system is further configured to omit said system call from said second set of instructions such that said operating system does not block said event signal based on said first set of instructions.

Applicants respectfully assert that *Solomon* fails to disclose each feature of claim 30. In this regard, the HAL or SAL of *Solomon* appears to translate system calls received from one operating system into system calls compatible with another operating system. If a first set of instructions from one of the "operating systems" includes a system call for blocking the alleged "event signal," then the HAL or SAL would presumably translate such system call such that the other operating system blocks the alleged "event signal." *Solomon* fails to disclose omitting the system call "such that said operating system does not block said event signal based on the first set of instructions,"

as described by claim 30. Accordingly, the 35 U.S.C. §102 rejection of claim 30 should be withdrawn, notwithstanding the allowability of claim 1.

#### **Claim 15**

Claim 15 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by

*Solomon*. Claim 15 presently reads as follows:

15. A method for selectively blocking event signals associated with an operating system, comprising the steps of:  
receiving an event signal from said operating system;  
***translating a first set of instructions from a program into a second set of instructions, said first set of instructions incompatible with said operating system and including a system call for blocking said event signal, said second set of instructions compatible with said operating system;***  
***transmitting said second set of instructions to said operating system for execution;***  
***indicating that said event signal is blocked in response to said system call;***  
determining whether said event signal is blocked subsequent to said receiving step and based on said indicating step; and  
delaying, based on said determining step, transmission of a signal corresponding to said event signal,  
***wherein said translating step comprises the step of omitting said system call from said second set of instructions such that said operating system is prevented from blocking said event signal based on said first set of instructions.*** (Emphasis added),

For at least the reasons set forth above in the arguments for allowance of pending claim 30, Applicants respectfully assert that *Solomon* fails to disclose at least the features of claim 15 highlighted above. Accordingly, the 35 U.S.C. §102 of claim 15 should be withdrawn.

#### **Claim 16**

Claim 16 presently stands rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Solomon*. Applicants submit that the pending dependent claim 16 contains all features of its independent claim 15. Since claim 15 should be allowed, as argued

hereinabove, pending dependent claims 16 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

#### **Claim 26**

Claim 26 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Solomon*. Claim 26, presently reads as follows:

26. A system for selectively blocking event signals, comprising:  
***an operating system configured to detect an occurrence of an event and to transmit an event signal corresponding to said event; and***  
***a translation system having a first data structure*** and configured to translate a first set of instructions from a program into a second set of instructions and to transmit said second set of instructions to said operating system for execution, ***said first data structure having a first value indicating whether said event signal is blocked***, said first set of instructions incompatible with said operating system and said second set of instructions compatible with said operating system, ***said translation system configured to identify, within said first set of instructions, a system call for blocking or unblocking said event signal and to update said first value in said first data structure in response to said system call***, said translation system configured to receive said event signal from said operating system and to transmit, to said program, a signal indicating said occurrence of said event in the absence of an indication from said first value that said event signal is blocked, said device further configured to store a second value if said first value indicates that said event signal is blocked, said second value indicative of said occurrence of said event while said event signal was blocked, said device further configured to analyze said second value in response to an unblocking system call and transmit a particular signal when said second value indicates said occurrence of said event while said event signal was blocked. (Emphasis added).

For at least the reasons similar to those set forth hereinabove in the arguments for allowance of claim 1, Applicants respectfully assert that *Solomon* fails to disclose at least the features of claim 26 highlighted above.

In addition, claim 26 recites "said device further configured to store a second value if said first value indicates that said event signal is blocked, said second value indicative of said occurrence of said event while said event signal was blocked, said device further configured to analyze said second value in response to an unblocking system call and transmit a particular

signal when said second value indicates said occurrence of said event while said event signal was blocked." Applicants respectfully submit that *Solomon* fails to disclose such features.

For at least the above reasons, Applicants assert that *Solomon* fails to disclose each feature of pending claim 26. Accordingly, the 35 U.S.C. §102 of claim 26 should be withdrawn.

#### **Claim 27**

Claim 27 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Solomon*. Claim 27, presently reads as follows:

27. A system for selectively blocking event signals, comprising:  
an operating system configured to detect an occurrence of an event and to transmit an event signal corresponding to said event; and  
***a translation system having a first data structure and a second data structure, the translation system configured to translate a first set of instructions from a program into a second set of instructions and transmit said second set of instructions to an operating system, said first data structure having a plurality of first values, each of said plurality of values indicating whether a corresponding event signal is blocked, said second data structure having a plurality of second values, each of said plurality of second values corresponding to each of said plurality of first values, each of said second values indicating whether an event signal was received while said first value corresponding to said second value indicated that said event signal was blocked, said translation system responsive to system calls for controlling said plurality of first values in said first data structure and responsive to an event signal from said operating system for analyzing one of said plurality of first values corresponding to said event signal in order to determine whether said event signal is blocked,***  
***wherein said translation system transmits a signal corresponding to said event signal when said translation system determines that said event signal is not blocked based on said one of said plurality of values and said translation system transmits another signal corresponding to said event signal, in response to an unblocking system call, when said translation system determines that said event signal was blocked based upon said one of said plurality of second values.*** (Emphasis added).

For at least the reasons similar to those set forth hereinabove in the arguments for allowance of claim 26, Applicants respectfully assert that *Solomon* fails to disclose at least the features of claim 27 highlighted above. Accordingly, the 35 U.S.C. §102 of claim 27 should be withdrawn.



**CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**

By:



Jon E. Holland  
Reg. No. 41,077  
(256) 704-3900 Ext. 103

Hewlett-Packard Company, L.P.  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, Colorado 80527-2400